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SUMMARY RECORD OF THE 1477th MEETING

Held at Headquarters, New York,
on Tuesday, 19 March 1996, at 3 p.m.

Chairman: Mr. EL-SHAFEI
(Vice-Chairman)

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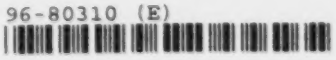

In the absence of Mr. Aquilar, Mr. El-Shafei, Vice-Chairman, took the Chair.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Mauritius (CCPR/C/641/Add.12 and HRI/CORE/1/Add.60) (continued)

Constitutional and legal framework within which the Covenant is implemented, state of emergency, non-discrimination and equality of the sexes, right to take part in the conduct of public affairs, and rights of persons belonging to minorities (articles 1, 2, 3, 4, 23, 24, 25, 26 and 27 of the Covenant) (section I of the list of issues) (continued)

1. The CHAIRMAN invited the representative of Mauritius to continue his replies to the oral questions relating to section I of the list of issues.

2. Mr. SEETHULSINGH explained that a supplementary report had been necessary because since circulation of the third periodic report in June 1995, the Constitution of Mauritius had been amended to abolish the death penalty. Responding to questions about the issues of affirmative action under section 16 of the Constitution, and discrimination, he pointed out that Mauritius was a nation of immigrants with no indigenous inhabitants; there were no victimized groups and there was no history of oppression, slavery having been abolished back in the 1830s. There had been no religious or racial oppression requiring affirmative action so that it had not become an issue. There were of course examples of affirmative action in the form of legislation to promote the interests of disadvantaged groups like the disabled, and it was hoped that legislation would be implemented soon. There was also a possible case of discrimination against the island of Rodrigues, situated 350 miles north-east of Mauritius. Its 35,000 to 40,000 inhabitants (out of a total population of 1.1 million) had suffered some disadvantage in the area of education and therefore the Government had decided to institute special scholarships for its primary level students and those who finished secondary school. No other groups received special treatment.

3. With regard to the question of equal pay for equal work, he stressed that in accordance with an amendment to section 16 of the Constitution, failure to provide equal pay for equal work was unconstitutional, but no such cases had come before the courts.

4. Responding to a question concerning traditional customs which affected women's rights to which reference had been made in the second report, he stated that rapid economic growth was leading to the gradual disappearance of cultural traditions which tended to discriminate against women. Moreover, the existence of a caste system similar to that in India was an unfortunate accident of history and although it was legitimized in the 1968 Constitution, it was never really practised.

5. Section 242 of the Criminal Code under which a husband was entitled to kill his adulterous wife could be dealt with by an amendment to section 16 of the Constitution. Certainly societal attitudes had changed so radically that killing one's partner for adultery could not be condoned. The letter of the law was not applied in the Grailov case because of section 16 and the courts would undoubtedly take section 16 into account in the future.

6. With regard to legal aid, he noted that the Rassoul case mentioned in the third periodic report was typical of cases involving drug couriers - often very poor Indians who were paid little and used by the major drug traffickers. Since they could not afford legal counsel, the Legal Aid Act entitled them to legal assistance when appearing before the Supreme Court, that is with a judge only. However, legal aid was not available if an appeal was made to the Privy Council in London. If, however, the Privy Council decided that the appeal was receivable based on some important point of law, it could request the Government of Mauritius to provide legal aid to the claimant, as in the Boucherville case described in the third periodic report.

7. The practice of having the children of female prisoners remain with their mothers in prison until the age of four had always been deemed necessary for breast-feeding and child care. However, the Government was considering leaving the children with their mothers only until the age of two.

8. Although the second report had contained only two communications under the First Protocol, the legal community in Mauritius was well aware of its right to petition the Human Rights Committee and a small number of communications might be seen as a tribute to the Mauritius legal system.

9. The citizens of Agalega and St. Brandon had not been eligible to vote in the previous elections because there had not been enough time to register them as voters due to the sudden election call. The new Government was committed to ensuring that they would be eligible to vote in the next elections and that the Electoral Boundaries Commission would assign them to the appropriate constituency.

10. Aliens in Mauritius did not have the right to social security, to vote or to employment in the public service. However, the Prime Minister's office could grant them work permits and residency credentials.

11. Concerning the applicability of the Covenant and whether the courts were bound to apply the Covenant, he stated that the courts were encouraged to refer to the Covenant and many of its provisions were in any case embodied in chapter 2 of the Constitution and in other laws. Citizens who believed that their human rights had been violated under section 17 of the Constitution could appeal to the Supreme Court and could be eligible for legal aid and some cases had actually been heard by the Supreme Court.

12. The new Government was committed to ensuring that future elections would be truly fair and free and to inviting international observers to monitor the democratic process.

13. The rights of succession of adulterine children would be protected if they could produce proof of their parental affiliation. The National Children's Council dealt with cases of violence against children or abuse of children's rights. In court cases, however, the judge would ask a probation officer to investigate the home situation to see if the children were being mistreated and if their needs were being met, and then to make a report to the court.

14. With regard to the practice of holding some prisoners incommunicado for 36 hours, in possible contravention of article 9 of the Covenant, and hindering their prompt access to the courts, he said that that practice was used mainly for drug traffickers and in any case did not prevent the accused from making application for an urgent writ of habeas corpus.

15. On the question of representation in the parliament, he pointed out of the 8 reserved seats out of a total of 70 the first 4 seats were allotted to communities which were underrepresented in parliament after the elections, and the second group of 4 seats were allotted to the winning party or parties to guarantee that there would be no imbalance after all the seats were filled.

16. Responding to concerns that parastatal or public sector organizations or corporations enjoyed some advantages over public sector corporations, he reassured the Committee that there was no discrimination in favour of such bodies at any level of government.

17. The report from Mauritius had been submitted late because, owing to the lack of personnel and resources, the Department of the Public Prosecutor and the Solicitor-General had often given precedence to criminal cases over human rights violation claims. That was no longer the case and Mauritius was now up to date in its reporting and would be ready to submit its fourth report whenever requested by the Committee.

18. The CHAIRMAN thanked the representative of Mauritius and asked the Committee if it had any supplementary questions.

19. Mr. BHAGWATI inquired whether article 16, subsection (4), part (b) of the Constitution excluded non-citizens from protection against discrimination possibly in violation of article 26 of the Covenant.

20. Mr. MAVROMMATIS, speaking as Special Rapporteur for Follow-up on Views, said that although the State party had made an honest effort to implement the Committee's views and the Covenant, he felt that stricter compliance with international instruments and more enabling legislation to reflect the views of the Committee based on individual complaints was necessary if compensation was to be paid.

21. Mr. SEETHULSINGH replied that the Law Reform Commission had been set up for that purpose.

Right to life, treatment of prisoners and other detainees, liberty and security of the person and right to a fair trial (articles 6, 7, 9, 10 and 14 of the Covenant) (section II of the list of issues)

Freedom of conscience, religion, expression, assembly and association (articles 18, 19, 21 and 22 of the Covenant) (section III of the list of issues)

22. The CHAIRMAN read out section II of the list of issues concerning the third periodic report of Mauritius, namely: (a) information on any consideration given to accession to the Second Optional Protocol, given the adoption of Death Penalty Act 1995; (b) the rules and regulations governing the use of weapons by the police and security agents; whether there had been any violation of those rules and regulations and, if so, what measures had been taken against persons found guilty of such acts and what had been done to prevent a recurrence; (c) the outcome of investigations requested by the Director of Public Prosecutions into recent allegations of death following police brutality, whether there had been any other complaints, during the period under review, of torture or other inhuman or degrading treatment or punishment and arbitrary detention, and if so, whether any investigation had been carried out and any action taken by the authorities to punish members of the police and other security agents found guilty of such acts; (d) further information on the functions and activities to date of the Commissioner of Prisons and on the extent to which article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners were complied with, and whether the latter provisions had been made known and accessible to the police, prison personnel and other persons responsible for interrogations, as well as to persons deprived of their liberty; (e) information on the law and practice relating to incommunicado detention as well as on the other practices mentioned in the report, such as handcuffing of detainees and forfeiture of the detainee's earning for a period of up to six months.

23. Under section III, the issues were: (a) the legal provisions governing the expulsion of aliens and whether an appeal against an expulsion order had suspensive effect; (b) the laws and regulations governing the recognition of religions or religious sects and the subsidizing of their activities by public authorities; (c) information on the implementation by the administrative authorities of the provisions of the Criminal Code relating to "publishing false news" and "libel"; (d) the relevant regulations and procedures under which literary works can be prohibited in Mauritius and the safeguards and remedies which were available to the authors concerned; (e) additional information on the implementation in law and practice of articles 21 and 22 of the Covenant and on whether the Trade Unions and Labour Relations Bill had already been adopted.

24. Mr. SEETHULSINGH, responding to the issue raised in section II (a), said that due consideration would be given to accession to the Second Optional Protocol and a decision would be taken.

25. In reply to section II (b), he pointed out that Mauritius had no armed forces other than a special mobile force made up of police officers detached from the police force for a specific tour of duty. Normally the police and security agents were not armed and rules and regulations governing their use of weapons were contained in the Police Act and were reserved for special

circumstances such as protecting persons under threat from drug traffickers. He could not recall any cases of the illegal use of weapons by the police and reassured the Committee that if police brutality could be proved, the officers involved would be prosecuted.

26. Turning to section II (c), he noted that one case of police brutality was being prosecuted and another reported case was under investigation, and if substantiated, the officer involved would be prosecuted and punished if found guilty.

27. Referring to section II (d), he stated that the Reform Institutions Act mentioned in the second report had come into force, prisoners were treated as humanely as possible and prison authorities were very much aware of the standards for the treatment of prisoners. Though the Penal Code contained a reference to hard labour, there was in fact no hard labour. Inmates did work in prison that taught them skills, their sentences could be reduced for good conduct, they had opportunities for recreation and study by correspondence, visits from relatives were allowed and they had access to legal advisers. During questioning, Mauritius followed the British practice of informing the prisoner of his right to remain silent and to legal counsel.

28. As for section II (e), punishments such as hand-cuffing or forfeiture of detainees' earnings were reserved for extreme cases where the prisoners had been totally out of control and could only be imposed after a hearing before the Prisons Board. The Board was chaired by a senior magistrate and was composed of state law officers such as representatives of the Attorney General.

29. Turning to section III of the list of issues, he said that the Deportation Act and the Immigration Act governed the expulsion of aliens, and an appeal did indeed have a suspensive effect. Illegal aliens could be deported, as could persons with criminal records entering Mauritius; many in the latter category had been found to be encouraging drug trafficking and prostitution.

30. Under section 14 of the Constitution, religious groups had the freedom to establish schools. The law gave statutory legitimacy to the governing bodies of religious groups, thereby enabling them to be subsidized by public funds. Such parliamentary subsidies were used mainly to provide salaries for clergy.

31. With regard to section III (c) and (d), he noted that Mauritius enjoyed freedom of the press. Journalists who published material without proper verification, however, could be subject to prosecution or be found in contempt of court. Mauritian society, though quite diverse, enjoyed a fragile harmony and the Civil Code contained provisions penalizing incitement to racial hatred. Out of respect for the culture and religion of all, therefore, such works as The Satanic Verses, The Rape of Sita and the film The Last Temptation of Christ had been banned in Mauritius.

32. Referring to section III (e) of the issues, he pointed out that the whole matter of the Trade Unions and Labour Relations Bill was being reviewed by a labour advisory board established by the new Government, in which all parties were represented. The trade unions had expressed dissatisfaction with the Bill,

and the Government was understandably reluctant to proceed without their agreement.

33. Mrs. CHANET said that some elements of the responses by the delegation of Mauritius raised concerns about the compatibility of domestic legislation with the Covenant. For example, article 8 of the Covenant prohibited forced labour by prisoners, yet the report stated that, when found guilty of a minor prison default, they could forfeit their earnings for work performed in prison, which amounted to forced labour. Furthermore, such sanctions were not based in legislation, but on an administrative decision by prison authorities, which provided few guarantees. By basing the length of pretrial detention on the severity of the sentence attached to the alleged crime, the authorities were in disregard of the presumption of innocence and in contravention of article 9 of the Covenant. The representative of Mauritius had affirmed the suspensive nature of judicial appeal with regard to expulsion of aliens, but in one case mentioned in the report, it appeared that the deportation had been carried out before the appeal had been heard, and she would welcome further elucidation of that point. The decision to censor works of literature was an administrative decision, and she wondered whether there was any appeal procedure.

34. Mr. PRADO VALLEJO inquired what the Government was doing to stop violations of human rights committed by the police forces and to prevent their recurrence. Concerning the incidents of police brutality mentioned in the report, he wished to know whether the perpetrators had been punished and the victims compensated. It was his impression that sentences for crimes relating to drug trafficking were disproportionately severe; he would welcome further details. He wondered whether the police were given training and basic education in human rights.

35. With regard to article 9 of the Covenant, it would be interesting to know what was considered "a reasonable time" for pre-trial detention in Mauritius and the criteria for denying bail. It was also unclear for what length of time a prisoner could be kept in segregation.

36. Mr. KRETZMER asked about procedures for examining complaints of police brutality and whether independent investigators were available. With regard to freedom of speech, he was sympathetic to the need to approach carefully the delicate relations between ethnic groups, but outlawing works of art could cause even greater problems. He would welcome more information on the exact legal structure for banning a work, whether there was a hearing or a judicial review and the attitude of the courts towards such cases. In that same vein, he asked for further information on current Government policy and progress made towards the liberalization of the electronic media.

37. Mr. BUERGENTHAL said that the penalties for aggravated prison default appeared to him to be quite heavy, and he wondered whether there were any provisions for appeal to a judicial body. He had also received reports that under a proposed Constitutional amendment, suspected drug traffickers could be detained indefinitely. If that was indeed the case, he would welcome more information about the relationship of that amendment to the Dangerous Drug Act.

38. Ms. MEDINA QUIROGA asked whether, under the Dangerous Drug Act, a suspect could be deprived of the right to consult a lawyer for a period of 36 hours

after arrest. With regard to article 10 of the Covenant, clarification was needed on what sort of force could be used to maintain order. Referring to article 11 of the Covenant, he said that it was unclear to her whether imprisonment for debt still existed in Mauritius. The discussion of paragraph 3 (c) of article 14 in the report stated that there was no time-limit on the initiation of criminal proceedings; she would like to know why.

39. With regard to the Public Gathering Act, mentioned in connection with article 21 of the Covenant, she would like to know whether the Commissioner of Police was required to follow established guidelines in reaching a decision to prohibit a public gathering. Further information was needed on the penalties imposed for publishing false news; in her view, a criminal response was disproportionate to the offence.

40. Mr. MAVROMMATIS asked, in connection with article 5 of the Covenant, about the practice regarding treaties devolving to the Government of Mauritius through State succession. He inquired about the reasons for the delay in bringing domestic legislation in Mauritius into compatibility with article 11 of the Covenant, and when the passage of the amendment to the Civil Code eliminating criminal penalties for debt was expected to be passed.

41. Freedom of expression and a free press were the quintessence of democracy. The problem of the publication of "false news" could best be addressed through a self-enforced code of conduct for journalists and not through criminal sanctions.

42. Ms. EVATT joined with Mr. Kretzmer in asking about the criteria used in the decision to ban The Rape of Sita and about the possibility of appeal. Although she understood the argument that the work could be considered offensive by some Hindus, it seemed to her that the underlying issue was the book's subject matter, sexual violence and the rights of women. Thus, she would welcome more details on the extent of domestic violence in Mauritius, what preventive and corrective measures the Government had taken in that area and the extent to which the women's movement saw domestic violence as a problem.

43. Turning to the question of pre-trial detention, article 5, paragraph 1 (k) of the Constitution conferred extensive powers on the Commissioner of Police to hold suspects. She would like to know how "reasonable suspicion" was established, how long a person so detained could be held, whether such detention was subject to court review and why it was necessary.

44. She asked whether the Trade Unions and Labour Relations Bill would cover the situation in the export protection zone. The majority of workers in that zone were women, who were subject to coercion by their employers not to join trade unions.

45. Mr. BÁN shared the concerns of previous speakers regarding the grounds for denial of release on bail, mentioned in the report in the section on article 9. Specifically, the Bail Act 1989 provided that a detainee was not entitled to be released on bail where his continued detention was necessary for the protection of any likely witness. While it was important to protect witnesses, the provision was too broad and not fully compatible with article 9 of the Covenant.

46. Given that Mauritius was a country with a multilingual population, it would be interesting to learn whether interpreters were provided free of cost during court proceedings and how the quality of interpretation was controlled. Finally, he asked that the delegation comment on revised section 283 of the Criminal Code which related to the offence of sedition, as he believed it went beyond the scope of article 20 of the Covenant.

47. Mr. KLEIN reiterated the concerns expressed by previous speakers regarding the offence of publishing false news under section 299 of the Criminal Code. The restrictions set forth in paragraph 3 of article 19 of the Covenant should apply to the publication of false news. It would be interesting to hear more of the delegation's views on the publishing of false news as it related to the right to freedom of expression.

48. Mr. POCAR said, with regard to article 15, specifically the retroactivity of criminal law and the adoption of lighter penalties, that in its second periodic report, the reporting State had informed the Committee that criminal law was not applied retroactively, but that there was no provision for decreasing penalties. While it was encouraging to see that the application of the death penalty had been suspended, there appeared to be no general provision to indicate fuller compliance with article 15 of the Covenant and he wondered whether the authorities in Mauritius had considered adopting such a provision.

49. He also inquired as to what would occur under the Public Gathering Act 1991, which provided that the Commissioner of Police must authorize public meetings and public processions, in a case where a police commissioner did not take action upon a request. He asked whether it was possible for the matter to be referred to the courts and to what extent the conditions imposed by the police commissioner for holding such a meeting could be reviewed. With regard to unlawful assembly, it would be interesting to learn if there had been any decision by the judiciary as to how a breach of the peace referred to in paragraph 1.4 in the section on article 21 was to be interpreted.

50. Mr. ANDO, making reference to paragraph 3.1 under the section on article 19 in which the report mentioned that journalists had been prosecuted for contempt of court for criticizing certain judges of the Supreme Court, sought clarification about the procedure for applying the concept of contempt of court and the courts that enforced that penalty. He said that the Committee had received information from the International Labour Organization (ILO) regarding trade unions and labour relations which had revealed that Mauritius had been slow to adopt ILO model treaties in those areas. He asked that the delegation provide some explanation for the low level of incorporation of ILO model treaties in Mauritian legislation.

51. Mr. BHAGWATI said that the provision in the Constitution which gave the Government the power to extend the appointment of a Chief Justice for up to four years after his term had expired should be deleted in the interest of preserving judiciary independence. He sought clarification about whether there was a legal aid act in force in the country or whether it was merely up to the discretion of the courts to appoint legal counsel for an indigent defendant or party involved in a civil suit. He also asked whether prisoners were guaranteed the right to legal aid and the right to communicate with a lawyer while in detention.

52. With regard to article 19 and the right to freedom of expression, he wondered whether Mauritius had adopted a freedom of information act to complement the protection of rights under the Constitution, since many other countries had done so with good results. In cases where works of art or books were banned by the Government or other authority, he inquired whether there was a right to judicial review. Referring to article 20 of the Covenant, he noted that the Criminal Code prohibited instigation of war against the State or of civil war, yet he wondered whether there was any general provision or law prohibiting propaganda inciting war. With regard to paragraph 2.2 under the section on article 19, in which the report stated that an ex-Minister was attacking the ex-Chief Justice because the latter had allowed his son to appear before him in cases in the Supreme Court, he inquired whether prosecution had been based solely on the charge of publishing false news.

53. In paragraph 1.3 under the section on article 21 the report stated that a police officer had the power to interrupt a public gathering if he believed that the continuance of the gathering was prejudicial to public safety or public order. In such cases, it was necessary to specify the rank of police officer since it would be wrong to give that power to all police officers. The requirement to give written notice within less than seven days before the day of holding a meeting or procession was too restrictive, as it was sometimes necessary to hold a public meeting at short notice. Finally, in section 5 (1) (k), the Constitution provided that no person was to be deprived of his personal liberty unless authorized by law upon reasonable suspicion of his having engaged in activities likely to cause a serious threat to public safety or public order. The reference to "reasonable suspicion" conferred too broad a power on the authorities and should be changed to "reasonable belief".

54. Mr. BRUNI CELLI wished to focus his remarks on the responsibility of the State party to implement the Covenant. At the conclusion of the review of its second periodic report, the delegation of Mauritius had stated that there was no need for special provisions in the body of laws or Constitution to implement the Covenant. However, if there was no specific disposition recognizing a right consecrated in the Covenant, he wondered how that right was to be guaranteed. For example, under the section on article 3 in paragraphs 4.3 and 4.4, the report mentioned that amendments would be made to remove any discrimination against women. He wondered whether the implication was that prior to those amendments, women's rights had not been protected in Mauritius. The core document (HRI/CORE/Add.60) stated in paragraph 12 that the provisions of the Covenant were of a persuasive character but not directly enforceable by the courts. Therefore, he inquired whether the provisions of the Covenant merely served as guidelines or whether the State was obligated by law to respect the Covenant.

55. Lord COLVILLE endorsed the comments of Ms. Evatt regarding section 5 (1) (k) of the Constitution and sought clarification with regard to section 5 (4) (a), under which a person who had been detained could be held for up to seven days before being charged. Paragraph 2.2 of the section on article 9 made reference to the practice of entering provisional information when a suspect was arrested or brought into custody. He inquired as to what was the basis for a system of "provisional information".

56. With regard to article 13, he asked the delegation to explain how aliens' claims for asylum and cases in which it was decided that they should be deported were handled. If the relevant decisions were taken by ministers, he wondered whether they were subject to judicial review in the courts and if so, did the ministers have to provide reasons in support of their decisions. Finally, with regard to article 14 and the right to silence which was guaranteed by the Covenant, he asked the delegation to explain what inferences the court was allowed to draw from a defendant's failure to testify at the trial or from his refusal to give information during a police interrogation.

57. Lastly, he noted from paragraph 3.5 of the revised third periodic report that the Ombudsman was competent to investigate complaints about the actions of Government officers or authorities. It would be useful to know whether mechanisms were in place for the implementation of the Ombudsman's recommendations if the complaints were found to be justified.

58. Mr. SEETHULSINGH, replying to the supplementary questions put by members of the Committee, said that, while State prisoners were required to perform certain tasks with a view to acquiring skills, there was no system of forced labour as such.

59. The concept of aggravated prison default was defined in the Prisons Regulations as an act of mutiny or incitement to mutiny, assault by a prisoner, escaping from prison, misconduct or insubordination, or a malicious act against a prison official. Procedures were in place for the punishment of prisoners found guilty of such acts.

60. On the question of bail for accused persons, as in many other countries, the decision whether to grant bail depended on the seriousness of the offence notwithstanding the presumption of the innocence of the accused.

61. Referring to the question raised by Mrs. Chanet, he said that there were certain parallels between the Megadama case and a similar one in the United Kingdom in which the Minister of Home Affairs had been found guilty of contempt of court for ordering the deportation of a party while the latter's case was still before the court. In the Megadama case, however, the application to the court had been based on a forged affidavit.

62. The removal from circulation of the books The Rape of Sita and The Satanic Verses could not be construed as a formal ban in the sense of an order by the Director of Public Prosecutions. Instead the prohibition had been the de facto result of a declaration to that effect by the former Prime Minister of Mauritius.

63. The Government had established a mechanism to combat police brutality by prosecuting the policemen involved. In addition, applicants to join the police force were being carefully screened by the Police Service Commission and, even though it was difficult to prevent all acts of police brutality, steps were taken to investigate all such allegations. Pending the establishment of an independent police complaints board, the Ombudsman was competent to investigate complaints against the police.

64. With regard to the liberalization of the regime governing television broadcasts, some preliminary work had already been done and a new body would be set up later in 1996 to ensure that the programme content of any new stations would not be dominated by foreign video clips and cartoons and that programmes reflecting the national culture would be given adequate coverage.

65. There was no truth to the allegation that persons accused of drug trafficking were detained indefinitely. Suspects were brought to trial as soon as possible. Drug trafficking, however, must be recognized for what it was - the bane of the modern world, and harsh punishments must be reserved for those found guilty of that offence.

66. Concern had been expressed about the legal provision for the detention incommunicado of persons accused of drug trafficking. A revised Dangerous Drugs Act, which contained that provision, had indeed been passed in 1995, although its provisions were not yet in force and might be subject to review. He would inform the Committee of any amendments to the Act following the proposed review. The reality of the situation, however, was that drug couriers would have the opportunity to warn their accomplices if they were allowed to communicate with third parties immediately after their arrest. The freedom of such individuals must therefore be balanced against the need to combat the scourge of drug trafficking in a small developing country. There had been persistent reports, moreover, that certain attorneys were aiding and abetting accused drug traffickers, thereby further complicating the task of the authorities.

67. On the question of the imprisonment of debtors, he acknowledged that the practice in Mauritius was not consistent with the provisions of article 11 of the Covenant. Debtors who were unable to fulfil their contractual obligations could be sentenced to a term of up to 12 months by the Supreme Court and up to three months by a district court. He was unaware of how other countries dealt with that kind of problem, but there were many persons in Mauritius who abused the system by contracting large debts and then refusing to pay.

68. On the question of lengthy delays in the initiation of criminal proceedings, Mauritius followed British jurisprudence, which contained no provision for the prescriptibility of offences. While it was difficult to gather and produce evidence after lengthy delays, the right of a person not to be charged with an offence after an unreasonable lapse of time must be balanced against the right of a society to seek justice.

69. Under the Public Gathering Act of 1991, the Commissioner of Police had the power to prohibit public gatherings. While the requirement of seven days notice might seem onerous, in practice, persons who were denied permission to organize a public gathering could appeal to the courts. Such appeals were usually heard within 24 hours and therefore the current system could not be construed as a restriction on the freedom of assembly and expression.

70. The Criminal Code provided for offences such as "publishing false news" and "libel" to curtail any abuse on the part of the press. It was important, for example, to protect the independence and reputation of the judiciary from scurrilous allegations in the press. The punishment for such offences must also be proportionate to the enormous damage caused. Many newspapers knowingly

published false news and then closed down their operations if they were sued. Indeed, at one stage, the Government had required newspapers to lodge a substantial deposit as a guarantee of payment of libel awards against them by the courts, but the practice had been deemed to be unfair and had been discontinued.

71. Responding to Ms. Evatt's concerns about domestic violence and, in particular, spousal murder, he acknowledged that domestic violence did occur in Mauritius, although cases of spousal murder were very rare. Steps were being taken to address the problem and the Government would shortly enact legislation on domestic violence.

72. The creole dialect was commonly used in courts and interpreters were provided if accused persons could not understand the proceedings. As a result of a case in which the conviction of an Indian drug courier had been set aside on appeal because he claimed that he had been unable to understand the proceedings, court officials now satisfied themselves before a trial began that accused persons understood the language of the court.

73. In keeping with article 15 of the Covenant, persons under sentence of death would have their sentences commuted to imprisonment when the 1995 abolition of the death penalty act came into force.

The meeting rose at 6.05 p.m.